

ORIGINAL

FEB 1 2006

FILED  
NOV 28 2005MICHAEL W. WILKIN,  
CLERK, U.S. DISTRICT COURT,  
NORTHERN DISTRICT OF CALIFORNIA

1 CATHERINE A. CONWAY (SBN 98366)  
 2 GREGORY W. KNOPP (SBN 237615)  
 3 S. ADAM SPIEWAK (SBN 230872)  
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7 Attorneys for Defendant Ernst & Young LLP

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10 UNITED STATES DISTRICT COURT

11 NORTHERN DISTRICT OF CALIFORNIA

12 (SAN JOSE DIVISION)

2  
Baw

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15 DAVID HO, on behalf of himself and  
 16 others similarly situated and on behalf  
 of the general public and DOES 1-20

17 Plaintiff,

18 v.

19 ERNST & YOUNG, LLP

20 Defendant.

Case No.

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C05 04867-HR

Case No.

DECLARATION OF S. ADAM  
 SPIEWAK IN SUPPORT OF  
 DEFENDANT ERNST & YOUNG  
 LLP'S NOTICE OF REMOVAL OF  
 ACTION

(SANTA CLARA SUPERIOR  
 COURT CASE NO. 105CV049741)

5833757

DECLARATION OF S. ADAM SPIEWAK IN SUPPORT OF DEFENDANT ERNST & YOUNG LLP'S NOTICE OF  
 REMOVAL OF ACTION

1 I, S. Adam Spiewak, certify and declare as follows:

2 1. I am an attorney at law duly licensed to practice in the Northern District of  
 3 California and an associate in the law firm of Akin Gump Strauss Hauer & Feld LLP,  
 4 attorneys of record for Defendant Ernst & Young LLP ("Ernst & Young") in this action.  
 5 I have personal knowledge of the facts stated herein, and if called and sworn as a  
 6 witness, I would and could testify competently under oath thereto. I submit this  
 7 declaration in support of Defendant Ernst & Young LLP's Notice of Removal of Action.

8 2. On September 27, 2005, a putative class action was commenced and is  
 9 currently pending against Ernst & Young LLP in the Superior Court of California,  
 10 County of Santa Clara, as Case No. 105CV049741, entitled DAVID HO, on behalf of  
 11 himself and others similarly situated and on behalf of the general public and DOES 1-  
 12 20, Plaintiff, vs. ERNST & YOUNG LLP, Defendant.

13 3. Attached hereto as **Exhibit A** is a true copy of the Summons, Civil Cover  
 14 Sheet, Complaint, Civil Lawsuit Notice, and Santa Clara County Superior Court  
 15 Alternative Dispute Resolution Information Sheet, as served on Ernst & Young by  
 16 facsimile on October 31, 2005.

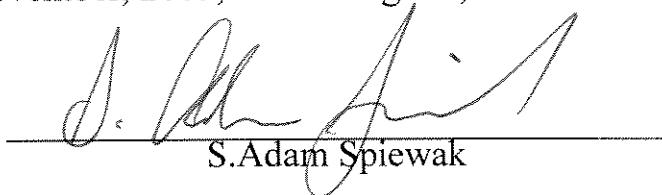
17 4. Attached hereto as **Exhibit B** is a true conformed copy of Ernst & Young  
 18 LLP's Answer to Plaintiff's Unverified Complaint, filed in Santa Clara Superior Court  
 19 on November 23, 2005.

20 5. There have been no further proceedings in case number 105CV049741, and  
 21 no other pleadings have been filed and served upon Plaintiff or Ernst & Young in this  
 22 action.

23 I declare under penalty of perjury under the laws of the United States that the  
 24 foregoing is true and correct.

25 Executed on this 28th day of November, 2005, in Los Angeles, California.

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S. Adam Spiewak